

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 2:08-cr-049-MEF
)	(WO)
RICHARD JAMES MARSHALL)	

O R D E R

On June 5, 2008, the defendant filed an Unopposed Motion to Continue Trial (Doc. #13), and an Amended Unopposed Motion to Continue Trial (Doc. #14). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). See *United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motion that on May 30, 2008, the defendant has filed a motion to suppress evidence. A continuance is sought to allow careful consideration and resolution of defendant's motion to suppress prior to trial. In addition, defense counsel needs additional time to complete an investigation and locate all witnesses relevant to this case in order to

prepare a defense. Counsel for the government does not oppose a continuance. Consequently, the court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this case outweighs the best interest of the public and the defendant in a speedy trial. *See United States v. Davenport*, 935 F.2d 1223, 1235 (11th Cir. 1991)(reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED:

1. That the defendant's motions filed on June 5, 2008 are GRANTED;
2. That the trial of this case is continued from the July 28, 2008 trial term to the October 20, 2008 trial term in Montgomery, Alabama.
3. That the Magistrate Judge conduct a pretrial conference prior to the October 20, 2008 trial term.

DONE this the 10th day of June, 2008.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE